

**Representative Stephen E. Sandstrom** proposes the following substitute bill:

**AMENDMENTS RELATING TO CERTAIN TAXES  
ADMINISTERED BY OR LICENSE PLATES ISSUED  
BY THE STATE TAX COMMISSION**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen E. Sandstrom**

Senate Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill amends the Revenue and Taxation and Motor Vehicle titles and related provisions.

**Highlighted Provisions:**

This bill:

- ▶ provides that under certain circumstances the State Tax Commission may not issue or renew a type of support special group license plate;
- ▶ requires the State Tax Commission to report to the Transportation Interim Committee under certain circumstances relating to issuing or renewing a type of support special group license plate;
- ▶ provides that a person is exempt from certain license plate fees if:
  - the person is issued a support special group license plate;
  - the State Tax Commission determines that the support special group license plate is of a type that the State Tax Commission may not issue or renew; and
  - the person is required to replace the support special group license plate with another license plate;



26           ▶ requires the State Tax Commission to report to the Revenue and Taxation Interim  
27 Committee if the Internal Revenue Code:

- 28           • does not impose a federal estate tax; and
- 29           • does not establish a date for reinstating a federal estate tax;
- 30           ▶ requires the Revenue and Taxation Interim Committee to prepare legislation to  
31 repeal the state inheritance tax if the State Tax Commission reports that the Internal  
32 Revenue Code:

- 33           • does not impose a federal estate tax; and
- 34           • does not establish a date for reinstating a federal estate tax;
- 35           ▶ provides a state and local sales and use tax exemption relating to a privately owned  
36 golf course;
- 37           ▶ repeals a requirement that a tax rate decal be placed on a fuel pump;
- 38           ▶ repeals the Illegal Drug Stamp Tax Act;
- 39           ▶ repeals the Sexually Explicit Business and Escort Service Tax; and
- 40           ▶ makes technical changes.

41 **Monies Appropriated in this Bill:**

42           None

43 **Other Special Clauses:**

44           This bill takes effect on July 1, 2008.

45 **Utah Code Sections Affected:**

46 AMENDS:

- 47           **41-1a-422**, as last amended by Laws of Utah 2007, Chapters 173, 179, and 325
- 48           **41-1a-1211**, as last amended by Laws of Utah 2007, Chapter 274
- 49           **59-11-102**, as last amended by Laws of Utah 2007, Chapter 306
- 50           **59-12-102**, as last amended by Laws of Utah 2007, Chapters 9, 214, 224, and 288
- 51           **59-12-104**, as last amended by Laws of Utah 2007, Chapters 76, 195, 214, 224, 288,
- 52 295, and 329
- 53           **63-38-9**, as last amended by Laws of Utah 2007, Chapter 122
- 54           **63-38a-104**, as last amended by Laws of Utah 1994, Chapter 211

55 ENACTS:

56           **59-11-116**, Utah Code Annotated 1953

## 57 REPEALS:

58 **59-13-104**, as enacted by Laws of Utah 1998, Chapter 25359 **59-19-101**, as enacted by Laws of Utah 1988, Chapter 24660 **59-19-102**, as enacted by Laws of Utah 1988, Chapter 24661 **59-19-103**, as enacted by Laws of Utah 1988, Chapter 24662 **59-19-104**, as enacted by Laws of Utah 1988, Chapter 24663 **59-19-105**, as last amended by Laws of Utah 1989, Chapter 24264 **59-19-106**, as last amended by Laws of Utah 1989, Chapter 24265 **59-19-107**, as enacted by Laws of Utah 1988, Chapter 24666 **59-27-101**, as enacted by Laws of Utah 2004, Chapter 21467 **59-27-102**, as enacted by Laws of Utah 2004, Chapter 21468 **59-27-103**, as enacted by Laws of Utah 2004, Chapter 21469 **59-27-104**, as enacted by Laws of Utah 2004, Chapter 21470 **59-27-105**, as enacted by Laws of Utah 2004, Chapter 21471 **59-27-106**, as enacted by Laws of Utah 2004, Chapter 21472 **59-27-107**, as enacted by Laws of Utah 2004, Chapter 21473 **59-27-108**, as enacted by Laws of Utah 2004, Chapter 21474 

---

---

  
75 *Be it enacted by the Legislature of the state of Utah:*76 Section 1. Section **41-1a-422** is amended to read:77 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**  
78 **contribution collection procedures -- Circumstances under which commission may not**  
79 **issue or renew -- Report to Transportation Interim Committee.**

80 (1) As used in this section:

81 (a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who  
82 has donated or in whose name at least \$25 has been donated to:

83 (A) a scholastic scholarship fund of a single named institution;

84 (B) the Department of Veterans' Affairs for veterans' programs;

85 (C) the Division of Wildlife Resources for the Wildlife Resources Account created in  
86 Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection,  
87 access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;  
(E) the Division of Parks and Recreation for the benefit of snowmobile programs;  
(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education; or

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-28 to assist people who have severe housing needs.

(ii) (A) For a veterans' special group license plate, "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the moneys collected by the institutions from contributors are used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63-38-3.2 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee; and

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates.

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans' license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

(5) (a) As used in this section:

150 (i) "Business day" means a day other than a Saturday, Sunday, or legal holiday.

151 (ii) "Type of support special group license plate" means a license plate issued with  
152 respect to one entity listed in Subsection (1)(a)(i).

153 (b) Notwithstanding the other provisions of this section and subject to Subsections  
154 (5)(c) and (d), beginning on the July 1 immediately following the last day of the three-year  
155 period described in Subsection (5)(c)(i), the commission may not issue or renew a type of  
156 support special group license plate under this section if the commission determines that, for  
157 each month of the three-year period described in Subsection (5)(c)(i), there are 300 or fewer  
158 vehicles registered under Part 2, Registration, that are allowed to display the type of support  
159 special group license plate.

160 (c) (i) (A) Subject to Subsection (5)(c)(i)(B), the three-year period described in  
161 Subsection (5)(b) is a three consecutive year time period that begins on the October 1  
162 immediately following the last day of a calendar year in which on the last business day of each  
163 month of that calendar year there are 300 or fewer vehicles registered under Part 2,  
164 Registration, that are allowed to display a type of support special group license plate.

165 (B) For purposes of Subsection (5)(c)(i)(A), if a type of support special group license  
166 plate is not in existence for a portion of a calendar year, that calendar year is not considered to  
167 be a calendar year in which on the last business day of each month of that calendar year there  
168 are 300 or fewer vehicles registered under Part 2, Registration, that are allowed to display a  
169 type of support special group license plate.

170 (ii) For purposes of determining whether for each month of a three-year period there  
171 are 300 or fewer vehicles registered under Part 2, Registration, that are allowed to display a  
172 type of support special group license plate, the commission shall examine its motor vehicle  
173 database on the last business day of each month to determine the number of vehicles that are  
174 allowed to display a type of support special group license plate.

175 (d) If the commission determines that, for each month of the three-year period  
176 described in Subsection (5)(c)(i), there are 300 or fewer vehicles registered under Part 2,  
177 Registration, that are allowed to display a type of support special group license plate, the  
178 commission shall report its intent to not issue or renew that type of support special group  
179 license plate:

180 (i) to the Transportation Interim Committee; and

181 (ii) on or before the November interim meeting immediately following the last day of  
182 the three-year period described in Subsection (5)(c).

183 Section 2. Section **41-1a-1211** is amended to read:

184 **41-1a-1211. License plate fees -- Application fees for issuance and renewal of**  
185 **personalized and special group license plates -- Replacement fee for license plates --**  
186 **Postage fees.**

187 (1) (a) Except as provided in ~~[Subsection]~~ Subsections (11) and (12), a license plate  
188 fee of \$5 per set shall be paid to the division for the issuance of any new license plate under  
189 Part 4, License Plates and Registration Indicia.

190 (b) The license plate fee shall be deposited as follows:

191 ~~[(a)]~~ (i) \$4 as provided in Section 41-1a-1201; and

192 ~~[(b)]~~ (ii) \$1 in the Transportation Fund.

193 (2) An applicant for original issuance of personalized license plates issued under  
194 Section 41-1a-410 shall pay a \$50 per set license plate application fee in addition to the fee  
195 required in Subsection (1).

196 (3) Beginning July 1, 2003, a person who applies for a special group license plate shall  
197 pay a \$5 fee for the original set of license plates in addition to the fee required under  
198 Subsection (1).

199 (4) An applicant for original issuance of personalized special group license plates shall  
200 pay the license plate application fees required in Subsection (2) in addition to the license plate  
201 fees and license plate application fees established under Subsections (1) and (3).

202 (5) An applicant for renewal of personalized license plates issued under Section  
203 41-1a-410 shall pay a \$10 per set application fee.

204 (6) (a) A fee of \$5 shall be paid to the division for the replacement of any license plate  
205 issued under Part 4, License Plates and Registration Indicia.

206 (b) The license plate fee shall be deposited as follows:

207 ~~[(a)]~~ (i) \$4 as provided in Section 41-1a-1201; and

208 ~~[(b)]~~ (ii) \$1 in the Transportation Fund.

209 (7) The division may charge a fee established under Section 63-38-3.2 to recover its  
210 costs for the replacement of decals issued under Section 41-1a-418.

211 (8) The division may charge a fee established under Section 63-38-3.2 to recover the

cost of issuing stickers under Section 41-1a-416.

(9) In addition to any other fees required by this section, the division shall assess a fee established under Section 63-38-3.2 to cover postage expenses if new or replacement license plates are mailed to the applicant.

(10) The fees required under this section are separate from and in addition to registration fees required under Section 41-1a-1206.

(11) (a) An applicant for a license plate issued under Section 41-1a-407 is not subject to the license plate fee under Subsection (1).

(b) An applicant for a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the fees under Subsections (1), (3), and (7).

(12) A person is exempt from the fee under Subsection (1) or (6) if:

(a) the person is issued a support special group license plate in accordance with Section 41-1a-422;

(b) after the person is issued the support special group license plate, the commission determines in accordance with Subsection 41-1a-422(5) that the support special group license plate described in Subsection (12)(a) is of a type of support special group license plate that the commission may not issue or renew; and

(c) upon renewal or reissuance, the person is required to replace the support special group license plate with a license plate that is not of the type of support special group license plate that the commission may not issue or renew.

Section 3. Section **59-11-102** is amended to read:

**59-11-102. Definitions.**

As used in this chapter:

(1) "Decedent" means a deceased natural person.

(2) "Federal credit" means the maximum amount of the credit for estate death taxes allowed by Section 2011 in respect to a decedent's taxable estate.

(3) "Federal estate tax" means a tax imposed:

(a) on the right to transfer property at the death of a person; and

(b) under the Internal Revenue Code.

~~[(3)]~~ (4) "Gross estate" means "gross estate" as defined in Section 2031, Internal Revenue Code.



[~~(4)~~] (5) "Nonresident" means a decedent who was domiciled outside of this state at the time of death.

[~~(5)~~] (6) "Other state" means any state in the United States other than this state, the District of Columbia, or any possession or territory of the United States.

[~~(6)~~] (7) "Person" includes any natural person, corporation, association, partnership, joint venture, syndicate, estate, trust, or other entity under which business or other activities may be conducted.

[~~(7)~~] (8) "Personal representative" means the executor, administrator, or trustee of a decedent's estate, or, if there is no executor, administrator, or trustee appointed, qualified, and acting within this state, then any person in actual or constructive possession of any property of the decedent.

[~~(8)~~] (9) "Resident" means a decedent who was domiciled in this state at the time of death.

[~~(9)~~] (10) "Section 2011" means "Section 2011," Internal Revenue Code.

[~~(10)~~] (11) "Taxable estate" means "taxable estate" as defined in Section 2051, Internal Revenue Code.

[~~(11)~~] (12) "Transfer" means "transfer" as described in Section 2001, Internal Revenue Code.

Section 4. Section **59-11-116** is enacted to read:

**59-11-116. Commission report to Revenue and Taxation Interim Committee -- Revenue and Taxation Interim Committee requirement to draft legislation to repeal tax under this chapter.**

(1) Subject to Subsection (2), the commission shall report to the Revenue and Taxation Interim Committee if:

(a) a federal estate tax is not imposed under the Internal Revenue Code; and

(b) a date for reinstating the imposition of a federal estate tax is not established in the Internal Revenue Code.

(2) The commission shall make the report required by Subsection (1) at the first Revenue and Taxation Interim Committee meeting after the date on which a federal estate tax is not imposed under the Internal Revenue Code.

(3) If the commission makes the report described in Subsection (1) to the Revenue and

274 Taxation Interim Committee, the Revenue and Taxation Interim Committee shall prepare  
275 legislation to repeal the tax under this chapter.

276 Section 5. Section **59-12-102** is amended to read:

277 **59-12-102. Definitions.**

278 As used in this chapter:

279 (1) (a) "Admission or user fees" includes season passes.

280 (b) "Admission or user fees" does not include annual membership dues to private  
281 organizations.

282 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in  
283 Section 59-12-102.1.

284 (3) "Agreement combined tax rate" means the sum of the tax rates:

285 (a) listed under Subsection (4); and

286 (b) that are imposed within a local taxing jurisdiction.

287 (4) "Agreement sales and use tax" means a tax imposed under:

288 (a) Subsection 59-12-103(2)(a)(i);

289 (b) Subsection 59-12-103(2)(b)(i);

290 (c) Subsection 59-12-103(2)(c)(i);

291 (d) Subsection 59-12-103(2)(d)(i);

292 (e) Subsection 59-12-103(2)(e)(ii)(A);

293 (f) Subsection 59-12-103(2)(e)(iii)(A);

294 (g) Section 59-12-204;

295 (h) Section 59-12-401;

296 (i) Section 59-12-402;

297 (j) Section 59-12-501;

298 (k) Section 59-12-502;

299 (l) Section 59-12-703;

300 (m) Section 59-12-802;

301 (n) Section 59-12-804;

302 (o) Section 59-12-1001;

303 (p) Section 59-12-1102;

304 (q) Section 59-12-1302;

(r) Section 59-12-1402;

(s) Section 59-12-1503; or

(t) Section 59-12-1703.

(5) "Aircraft" is as defined in Section 72-10-102.

(6) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(7) "Area agency on aging" is as defined in Section 62A-3-101.

(8) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(9) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(10) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, the holder of a certificate issued by the United States Surface Transportation Board.

(11) (a) Except as provided in Subsection (11)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

- 336 (i) material from a plant or tree; or  
337 (ii) other organic matter that is available on a renewable basis, including:  
338 (A) slash and brush from forests and woodlands;  
339 (B) animal waste;  
340 (C) methane produced:  
341 (I) at landfills; or  
342 (II) as a byproduct of the treatment of wastewater residuals;  
343 (D) aquatic plants; and  
344 (E) agricultural products.  
345 (b) "Biomass energy" does not include:  
346 (i) black liquor;  
347 (ii) treated woods; or  
348 (iii) biomass from municipal solid waste other than methane produced:  
349 (A) at landfills; or  
350 (B) as a byproduct of the treatment of wastewater residuals.  
351 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
352 property if:  
353 (i) one or more of the items of tangible personal property is food and food ingredients;  
354 and  
355 (ii) the items of tangible personal property are:  
356 (A) distinct and identifiable; and  
357 (B) sold for one price that is not itemized.  
358 (b) "Bundled transaction" does not include the sale of tangible personal property if the  
359 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of  
360 tangible personal property included in the transaction.  
361 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct  
362 and identifiable does not include:  
363 (i) packaging that:  
364 (A) accompanies the sale of the tangible personal property; and  
365 (B) is incidental or immaterial to the sale of the tangible personal property;  
366 (ii) tangible personal property provided free of charge with the purchase of another

item of tangible personal property; or

(iii) an item of tangible personal property included in the definition of "purchase price."

(d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is provided free of charge with the purchase of another item of tangible personal property if the sales price of the purchased item of tangible personal property does not vary depending on the inclusion of the tangible personal property provided free of charge.

(13) "Certified automated system" means software certified by the governing board of the agreement in accordance with Section 59-12-102.1 that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (13)(a)(i).

(14) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement in accordance with Section 59-12-102.1; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's own purchases.

(15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(16) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other

fuels that does not constitute industrial use under Subsection (42) or residential use under Subsection (80).

(18) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (18)(b)(i), in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(19) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(20) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(21) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(22) "Construction materials" means any tangible personal property that will be converted into real property.

(23) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(24) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property; or

429 (B) services; and  
430 (ii) for preparation and delivery of the tangible personal property or services described  
431 in Subsection (24)(a)(i) to a location designated by the purchaser.

432 (b) "Delivery charge" includes a charge for the following:

- 433 (i) transportation;
- 434 (ii) shipping;
- 435 (iii) postage;
- 436 (iv) handling;
- 437 (v) crating; or
- 438 (vi) packing.

439 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:

- 440 (i) a bridge;
- 441 (ii) a crown if that crown covers at least 75% of a tooth structure;
- 442 (iii) a denture;
- 443 (iv) an implant;
- 444 (v) an orthodontic device designed to:
  - 445 (A) retain the position or spacing of teeth; and
  - 446 (B) replace a missing tooth;
- 447 (vi) a partial denture; or
- 448 (vii) a device similar to Subsections (25)(a)(i) through (vi).

449 (b) "Dental prosthesis" does not include an appliance or device, other than a device  
450 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to  
451 apply force to the teeth and their supporting structures to:

- 452 (i) produce changes in their relationship to each other; and
- 453 (ii) control their growth and development.

454 (26) "Dietary supplement" means a product, other than tobacco, that:

- 455 (a) is intended to supplement the diet;
- 456 (b) contains one or more of the following dietary ingredients:
  - 457 (i) a vitamin;
  - 458 (ii) a mineral;
  - 459 (iii) an herb or other botanical;

460 (iv) an amino acid;

461 (v) a dietary substance for use by humans to supplement the diet by increasing the total  
462 dietary intake; or

463 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
464 described in Subsections (26)(b)(i) through (v);

465 (c) (i) except as provided in Subsection (26)(c)(ii), is intended for ingestion in:

466 (A) tablet form;

467 (B) capsule form;

468 (C) powder form;

469 (D) softgel form;

470 (E) gelcap form; or

471 (F) liquid form; or

472 (ii) notwithstanding Subsection (26)(c)(i), if the product is not intended for ingestion in  
473 a form described in Subsections (26)(c)(i)(A) through (F), is not represented:

474 (A) as conventional food; and

475 (B) for use as a sole item of:

476 (I) a meal; or

477 (II) the diet; and

478 (d) is required to be labeled as a dietary supplement:

479 (i) identifiable by the "Supplemental Facts" box found on the label; and

480 (ii) as required by 21 C.F.R. Sec. 101.36.

481 (27) (a) "Direct mail" means printed material delivered or distributed by United States  
482 mail or other delivery service:

483 (i) to:

484 (A) a mass audience; or

485 (B) addressees on a mailing list provided by a purchaser of the mailing list; and

486 (ii) if the cost of the printed material is not billed directly to the recipients.

487 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a  
488 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

489 (c) "Direct mail" does not include multiple items of printed material delivered to a  
490 single address.



491 (28) (a) "Disposable home medical equipment or supplies" means medical equipment  
492 or supplies that:

493 (i) cannot withstand repeated use; and

494 (ii) are purchased by, for, or on behalf of a person other than:

495 (A) a health care facility as defined in Section 26-21-2;

496 (B) a health care provider as defined in Section 78-14-3;

497 (C) an office of a health care provider described in Subsection (28)(a)(ii)(B); or

498 (D) a person similar to a person described in Subsections (28)(a)(ii)(A) through (C).

499 (b) "Disposable home medical equipment or supplies" does not include:

500 (i) a drug;

501 (ii) durable medical equipment;

502 (iii) a hearing aid;

503 (iv) a hearing aid accessory;

504 (v) mobility enhancing equipment; or

505 (vi) tangible personal property used to correct impaired vision, including:

506 (A) eyeglasses; or

507 (B) contact lenses.

508 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
509 commission may by rule define what constitutes medical equipment or supplies.

510 (29) (a) "Drug" means a compound, substance, or preparation, or a component of a  
511 compound, substance, or preparation that is:

512 (i) recognized in:

513 (A) the official United States Pharmacopoeia;

514 (B) the official Homeopathic Pharmacopoeia of the United States;

515 (C) the official National Formulary; or

516 (D) a supplement to a publication listed in Subsections (29)(a)(i)(A) through (C);

517 (ii) intended for use in the:

518 (A) diagnosis of disease;

519 (B) cure of disease;

520 (C) mitigation of disease;

521 (D) treatment of disease; or

522 (E) prevention of disease; or  
523 (iii) intended to affect:  
524 (A) the structure of the body; or  
525 (B) any function of the body.  
526 (b) "Drug" does not include:  
527 (i) food and food ingredients;  
528 (ii) a dietary supplement;  
529 (iii) an alcoholic beverage; or  
530 (iv) a prosthetic device.  
531 (30) (a) Except as provided in Subsection (30)(c), "durable medical equipment" means  
532 equipment that:  
533 (i) can withstand repeated use;  
534 (ii) is primarily and customarily used to serve a medical purpose;  
535 (iii) generally is not useful to a person in the absence of illness or injury; and  
536 (iv) is not worn in or on the body.  
537 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
538 equipment described in Subsection (30)(a).  
539 (c) Notwithstanding Subsection (30)(a), "durable medical equipment" does not include  
540 mobility enhancing equipment.  
541 (31) "Electronic" means:  
542 (a) relating to technology; and  
543 (b) having:  
544 (i) electrical capabilities;  
545 (ii) digital capabilities;  
546 (iii) magnetic capabilities;  
547 (iv) wireless capabilities;  
548 (v) optical capabilities;  
549 (vi) electromagnetic capabilities; or  
550 (vii) capabilities similar to Subsections (31)(b)(i) through (vi).  
551 (32) "Employee" is as defined in Section 59-10-401.  
552 (33) "Fixed guideway" means a public transit facility that uses and occupies:

- 553 (a) rail for the use of public transit; or  
554 (b) a separate right-of-way for the use of public transit.  
555 (34) (a) "Food and food ingredients" means substances:  
556 (i) regardless of whether the substances are in:  
557 (A) liquid form;  
558 (B) concentrated form;  
559 (C) solid form;  
560 (D) frozen form;  
561 (E) dried form; or  
562 (F) dehydrated form; and  
563 (ii) that are:  
564 (A) sold for:  
565 (I) ingestion by humans; or  
566 (II) chewing by humans; and  
567 (B) consumed for the substance's:  
568 (I) taste; or  
569 (II) nutritional value.  
570 (b) "Food and food ingredients" includes an item described in Subsection (66)(b)(iii).  
571 (c) "Food and food ingredients" does not include:  
572 (i) an alcoholic beverage;  
573 (ii) tobacco; or  
574 (iii) prepared food.  
575 (35) (a) "Fundraising sales" means sales:  
576 (i) (A) made by a school; or  
577 (B) made by a school student;  
578 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
579 materials, or provide transportation; and  
580 (iii) that are part of an officially sanctioned school activity.  
581 (b) For purposes of Subsection (35)(a)(iii), "officially sanctioned school activity"  
582 means a school activity:  
583 (i) that is conducted in accordance with a formal policy adopted by the school or school

district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(36) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(37) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(38) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a college campus of the Utah College of Applied Technology;

(ii) a school;

(iii) the State Board of Education;

(iv) the State Board of Regents; or

(v) a state institution of higher education as defined in Section 53B-3-102.

(39) (a) "Hearing aid" means:

- 615 (i) an instrument or device having an electronic component that is designed to:
- 616 (A) (I) improve impaired human hearing; or
- 617 (II) correct impaired human hearing; and
- 618 (B) (I) be worn in the human ear; or
- 619 (II) affixed behind the human ear;
- 620 (ii) an instrument or device that is surgically implanted into the cochlea; or
- 621 (iii) a telephone amplifying device.
- 622 (b) "Hearing aid" does not include:
- 623 (i) except as provided in Subsection (39)(a)(i)(B) or (39)(a)(ii), an instrument or device
- 624 having an electronic component that is designed to be worn on the body;
- 625 (ii) except as provided in Subsection (39)(a)(iii), an assistive listening device or system
- 626 designed to be used by one individual, including:
- 627 (A) a personal amplifying system;
- 628 (B) a personal FM system;
- 629 (C) a television listening system; or
- 630 (D) a device or system similar to a device or system described in Subsections
- 631 (39)(b)(ii)(A) through (C); or
- 632 (iii) an assistive listening device or system designed to be used by more than one
- 633 individual, including:
- 634 (A) a device or system installed in:
- 635 (I) an auditorium;
- 636 (II) a church;
- 637 (III) a conference room;
- 638 (IV) a synagogue; or
- 639 (V) a theater; or
- 640 (B) a device or system similar to a device or system described in Subsections
- 641 (39)(b)(iii)(A)(I) through (V).
- 642 (40) (a) "Hearing aid accessory" means a hearing aid:
- 643 (i) component;
- 644 (ii) attachment; or
- 645 (iii) accessory.

- 646 (b) "Hearing aid accessory" includes:
- 647 (i) a hearing aid neck loop;
- 648 (ii) a hearing aid cord;
- 649 (iii) a hearing aid ear mold;
- 650 (iv) hearing aid tubing;
- 651 (v) a hearing aid ear hook; or
- 652 (vi) a hearing aid remote control.
- 653 (c) "Hearing aid accessory" does not include:
- 654 (i) a component, attachment, or accessory designed to be used only with an:
- 655 (A) instrument or device described in Subsection (39)(b)(i); or
- 656 (B) assistive listening device or system described in Subsection (39)(b)(ii) or (iii); or
- 657 (ii) a hearing aid battery.
- 658 (41) "Hydroelectric energy" means water used as the sole source of energy to produce
- 659 electricity.
- 660 (42) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 661 other fuels:
- 662 (a) in mining or extraction of minerals;
- 663 (b) in agricultural operations to produce an agricultural product up to the time of
- 664 harvest or placing the agricultural product into a storage facility, including:
- 665 (i) commercial greenhouses;
- 666 (ii) irrigation pumps;
- 667 (iii) farm machinery;
- 668 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 669 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 670 (v) other farming activities;
- 671 (c) in manufacturing tangible personal property at an establishment described in SIC
- 672 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 673 Executive Office of the President, Office of Management and Budget;
- 674 (d) by a scrap recycler if:
- 675 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 676 one or more of the following items into prepared grades of processed materials for use in new

677 products:

678 (A) iron;

679 (B) steel;

680 (C) nonferrous metal;

681 (D) paper;

682 (E) glass;

683 (F) plastic;

684 (G) textile; or

685 (H) rubber; and

686 (ii) the new products under Subsection (42)(d)(i) would otherwise be made with

687 nonrecycled materials; or

688 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a

689 cogeneration facility as defined in Section 54-2-1.

690 (43) (a) Except as provided in Subsection (43)(b), "installation charge" means a charge

691 for installing tangible personal property.

692 (b) Notwithstanding Subsection (43)(a), "installation charge" does not include a charge

693 for repairs or renovations of tangible personal property.

694 (44) (a) "Lease" or "rental" means a transfer of possession or control of tangible

695 personal property for:

696 (i) (A) a fixed term; or

697 (B) an indeterminate term; and

698 (ii) consideration.

699 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the

700 amount of consideration may be increased or decreased by reference to the amount realized

701 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue

702 Code.

703 (c) "Lease" or "rental" does not include:

704 (i) a transfer of possession or control of property under a security agreement or

705 deferred payment plan that requires the transfer of title upon completion of the required

706 payments;

707 (ii) a transfer of possession or control of property under an agreement that requires the

transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (44)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(45) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(46) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(47) "Manufactured home" is as defined in Section 58-56-3.

(48) For purposes of Section 59-12-104, "manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;



739 (D) paper;  
740 (E) glass;  
741 (F) plastic;  
742 (G) textile; or  
743 (H) rubber; and  
744 (ii) the new products under Subsection (48)(b)(i) would otherwise be made with  
745 nonrecycled materials; or  
746 (c) a cogeneration facility as defined in Section 54-2-1.  
747 (49) "Member of the immediate family of the producer" means a person who is related  
748 to a producer described in Subsection 59-12-104(20)(a) as a:  
749 (a) child or stepchild, regardless of whether the child or stepchild is:  
750 (i) an adopted child or adopted stepchild; or  
751 (ii) a foster child or foster stepchild;  
752 (b) grandchild or stepgrandchild;  
753 (c) grandparent or stepgrandparent;  
754 (d) nephew or stepnephew;  
755 (e) niece or stepniece;  
756 (f) parent or stepparent;  
757 (g) sibling or stepsibling;  
758 (h) spouse;  
759 (i) person who is the spouse of a person described in Subsections (49)(a) through (g);  
760 or  
761 (j) person similar to a person described in Subsections (49)(a) through (i) as  
762 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah  
763 Administrative Rulemaking Act.  
764 (50) "Mobile home" is as defined in Section 58-56-3.  
765 (51) "Mobile telecommunications service" is as defined in the Mobile  
766 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.  
767 (52) (a) Except as provided in Subsection (52)(c), "mobility enhancing equipment"  
768 means equipment that is:  
769 (i) primarily and customarily used to provide or increase the ability to move from one

770 place to another;

771 (ii) appropriate for use in a:

772 (A) home; or

773 (B) motor vehicle; and

774 (iii) not generally used by persons with normal mobility.

775 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of

776 the equipment described in Subsection (52)(a).

777 (c) Notwithstanding Subsection (52)(a), "mobility enhancing equipment" does not

778 include:

779 (i) a motor vehicle;

780 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor

781 vehicle manufacturer;

782 (iii) durable medical equipment; or

783 (iv) a prosthetic device.

784 (53) "Model 1 seller" means a seller that has selected a certified service provider as the

785 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and

786 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the

787 seller's own purchases.

788 (54) "Model 2 seller" means a seller that:

789 (a) except as provided in Subsection (54)(b), has selected a certified automated system

790 to perform the seller's sales tax functions for agreement sales and use taxes; and

791 (b) notwithstanding Subsection (54)(a), retains responsibility for remitting all of the

792 sales tax:

793 (i) collected by the seller; and

794 (ii) to the appropriate local taxing jurisdiction.

795 (55) (a) Subject to Subsection (55)(b), "model 3 seller" means a seller that has:

796 (i) sales in at least five states that are members of the agreement;

797 (ii) total annual sales revenues of at least \$500,000,000;

798 (iii) a proprietary system that calculates the amount of tax:

799 (A) for an agreement sales and use tax; and

800 (B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (55)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(56) "Modular home" means a modular unit as defined in Section 58-56-3.

(57) "Motor vehicle" is as defined in Section 41-1a-102.

(58) "Oil shale" means a group of fine black to dark brown shales containing bituminous material that yields petroleum upon distillation.

(59) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(60) "Pawnbroker" is as defined in Section 13-32a-102.

(61) "Pawn transaction" is as defined in Section 13-32a-102.

(62) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) an attachment of the following tangible personal property to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

(A) property attached to oil, gas, or water pipelines, other than the property listed in Subsection (62)(c)(iii);

(B) a hot water heater;

(C) a water softener system; or

(D) a water filtration system, other than a water filtration system manufactured as part of a refrigerator.

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property other than the detachment described in Subsection (62)(b)(ii); or

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

(A) a refrigerator;

(B) a washer;

(C) a dryer;

(D) a stove;

(E) a television;

(F) a computer;

(G) a telephone; or

(H) tangible personal property similar to Subsections (62)(c)(iii)(A) through (G) as determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah

863 Administrative Rulemaking Act.

864 (63) "Person" includes any individual, firm, partnership, joint venture, association,  
865 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
866 municipality, district, or other local governmental entity of the state, or any group or  
867 combination acting as a unit.

868 (64) "Place of primary use":

869 (a) for telephone service other than mobile telecommunications service, means the  
870 street address representative of where the purchaser's use of the telephone service primarily  
871 occurs, which shall be:

872 (i) the residential street address of the purchaser; or

873 (ii) the primary business street address of the purchaser; or

874 (b) for mobile telecommunications service, is as defined in the Mobile  
875 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

876 (65) "Postproduction" means an activity related to the finishing or duplication of a  
877 medium described in Subsection 59-12-104(56)(a).

878 (66) (a) "Prepared food" means:

879 (i) food:

880 (A) sold in a heated state; or

881 (B) heated by a seller;

882 (ii) two or more food ingredients mixed or combined by the seller for sale as a single  
883 item; or

884 (iii) except as provided in Subsection (66)(c), food sold with an eating utensil provided  
885 by the seller, including a:

886 (A) plate;

887 (B) knife;

888 (C) fork;

889 (D) spoon;

890 (E) glass;

891 (F) cup;

892 (G) napkin; or

893 (H) straw.

894 (b) "Prepared food" does not include:  
895 (i) food that a seller only:  
896 (A) cuts;  
897 (B) repackages; or  
898 (C) pasteurizes; or  
899 (ii) (A) the following:  
900 (I) raw egg;  
901 (II) raw fish;  
902 (III) raw meat;  
903 (IV) raw poultry; or  
904 (V) a food containing an item described in Subsections (66)(b)(ii)(A)(I) through (IV);  
905 and  
906 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
907 Food and Drug Administration's Food Code that a consumer cook the items described in  
908 Subsection (66)(b)(ii)(A) to prevent food borne illness; or  
909 (iii) the following if sold without eating utensils provided by the seller:  
910 (A) food and food ingredients sold by a seller if the seller's proper primary  
911 classification under the 2002 North American Industry Classification System of the federal  
912 Executive Office of the President, Office of Management and Budget, is manufacturing in  
913 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla  
914 Manufacturing;  
915 (B) food and food ingredients sold in an unheated state:  
916 (I) by weight or volume; and  
917 (II) as a single item; or  
918 (C) a bakery item, including:  
919 (I) a bagel;  
920 (II) a bar;  
921 (III) a biscuit;  
922 (IV) bread;  
923 (V) a bun;  
924 (VI) a cake;

- 925 (VII) a cookie;
- 926 (VIII) a croissant;
- 927 (IX) a danish;
- 928 (X) a donut;
- 929 (XI) a muffin;
- 930 (XII) a pastry;
- 931 (XIII) a pie;
- 932 (XIV) a roll;
- 933 (XV) a tart;
- 934 (XVI) a torte; or
- 935 (XVII) a tortilla.
- 936 (c) Notwithstanding Subsection (66)(a)(iii), an eating utensil provided by the seller
- 937 does not include the following used to transport the food:
- 938 (i) a container; or
- 939 (ii) packaging.
- 940 (67) "Prescription" means an order, formula, or recipe that is issued:
- 941 (a) (i) orally;
- 942 (ii) in writing;
- 943 (iii) electronically; or
- 944 (iv) by any other manner of transmission; and
- 945 (b) by a licensed practitioner authorized by the laws of a state.
- 946 (68) (a) Except as provided in Subsection (68)(b)(ii) or (iii), "prewritten computer
- 947 software" means computer software that is not designed and developed:
- 948 (i) by the author or other creator of the computer software; and
- 949 (ii) to the specifications of a specific purchaser.
- 950 (b) "Prewritten computer software" includes:
- 951 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 952 software is not designed and developed:
- 953 (A) by the author or other creator of the computer software; and
- 954 (B) to the specifications of a specific purchaser;
- 955 (ii) notwithstanding Subsection (68)(a), computer software designed and developed by

the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) notwithstanding Subsection (68)(a) and except as provided in Subsection (68)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (68)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) Notwithstanding Subsection (68)(b)(iii), "prewritten computer software" does not include a modification or enhancement described in Subsection (68)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) separately stated on the invoice or other statement of price provided to the purchaser.

(69) (a) Subject to Subsections (69)(b) and (c), "privately owned golf course" means a golf course that:

(i) is owned or operated by a business entity that is not a governmental entity as defined in Section 59-2-511; and

(ii) may be used by the public for golfing or golfing practice.

(b) "Privately owned golf course" includes:

(i) a club house operated in conjunction with a golf course;

(ii) a driving range operated in conjunction with a golf course;

(iii) an irrigation system associated with a golf course;

(iv) landscaping associated with a golf course;

(v) a path associated with a golf course;

(vi) a patio associated with a golf course;

(vii) a pro shop operated in conjunction with a golf course; or

(viii) a restaurant operated in conjunction with a golf course.

(c) "Privately owned golf course" does not include a private golf course or private country club that restricts the use of the private golf course or private country club or a facility of the private golf course or private country club to:

(i) a member of the private golf course or private country club; or



987 (ii) a guest of a member described in Subsection (69)(c)(i).

988 [~~(69)~~] (70) (a) "Prosthetic device" means a device that is worn on or in the body to:

989 (i) artificially replace a missing portion of the body;

990 (ii) prevent or correct a physical deformity or physical malfunction; or

991 (iii) support a weak or deformed portion of the body.

992 (b) "Prosthetic device" includes:

993 (i) parts used in the repairs or renovation of a prosthetic device;

994 (ii) replacement parts for a prosthetic device; or

995 (iii) a dental prosthesis.

996 (c) "Prosthetic device" does not include:

997 (i) corrective eyeglasses;

998 (ii) contact lenses; or

999 (iii) hearing aids.

1000 [~~(70)~~] (71) (a) "Protective equipment" means an item:

1001 (i) for human wear; and

1002 (ii) that is:

1003 (A) designed as protection:

1004 (I) to the wearer against injury or disease; or

1005 (II) against damage or injury of other persons or property; and

1006 (B) not suitable for general use.

1007 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1008 commission shall make rules:

1009 (i) listing the items that constitute "protective equipment"; and

1010 (ii) that are consistent with the list of items that constitute "protective equipment"  
1011 under the agreement.

1012 [~~(71)~~] (72) (a) For purposes of Subsection 59-12-104(41), "publication" means any  
1013 written or printed matter, other than a photocopy:

1014 (i) regardless of:

1015 (A) characteristics;

1016 (B) copyright;

1017 (C) form;

1018 (D) format;  
1019 (E) method of reproduction; or  
1020 (F) source; and  
1021 (ii) made available in printed or electronic format.  
1022 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1023 commission may by rule define the term "photocopy."  
1024 [~~(72)~~] (73) (a) "Purchase price" and "sales price" mean the total amount of  
1025 consideration:  
1026 (i) valued in money; and  
1027 (ii) for which tangible personal property or services are:  
1028 (A) sold;  
1029 (B) leased; or  
1030 (C) rented.  
1031 (b) "Purchase price" and "sales price" include:  
1032 (i) the seller's cost of the tangible personal property or services sold;  
1033 (ii) expenses of the seller, including:  
1034 (A) the cost of materials used;  
1035 (B) a labor cost;  
1036 (C) a service cost;  
1037 (D) interest;  
1038 (E) a loss;  
1039 (F) the cost of transportation to the seller; or  
1040 (G) a tax imposed on the seller; or  
1041 (iii) a charge by the seller for any service necessary to complete the sale.  
1042 (c) "Purchase price" and "sales price" do not include:  
1043 (i) a discount:  
1044 (A) in a form including:  
1045 (I) cash;  
1046 (II) term; or  
1047 (III) coupon;  
1048 (B) that is allowed by a seller;

1049 (C) taken by a purchaser on a sale; and  
1050 (D) that is not reimbursed by a third party; or  
1051 (ii) the following if separately stated on an invoice, bill of sale, or similar document  
1052 provided to the purchaser:  
1053 (A) the amount of a trade-in;  
1054 (B) the following from credit extended on the sale of tangible personal property or  
1055 services:  
1056 (I) interest charges;  
1057 (II) financing charges; or  
1058 (III) carrying charges;  
1059 (C) a tax or fee legally imposed directly on the consumer;  
1060 (D) a delivery charge; or  
1061 (E) an installation charge.  
1062 ~~[(73)]~~ (74) "Purchaser" means a person to whom:  
1063 (a) a sale of tangible personal property is made; or  
1064 (b) a service is furnished.  
1065 ~~[(74)]~~ (75) "Regularly rented" means:  
1066 (a) rented to a guest for value three or more times during a calendar year; or  
1067 (b) advertised or held out to the public as a place that is regularly rented to guests for  
1068 value.  
1069 ~~[(75)]~~ (76) "Renewable energy" means:  
1070 (a) biomass energy;  
1071 (b) hydroelectric energy;  
1072 (c) geothermal energy;  
1073 (d) solar energy; or  
1074 (e) wind energy.  
1075 ~~[(76)]~~ (77) (a) "Renewable energy production facility" means a facility that:  
1076 (i) uses renewable energy to produce electricity; and  
1077 (ii) has a production capacity of 20 kilowatts or greater.  
1078 (b) A facility is a renewable energy production facility regardless of whether the  
1079 facility is:

1080 (i) connected to an electric grid; or  
 1081 (ii) located on the premises of an electricity consumer.  
 1082 [~~(77)~~] (78) "Rental" is as defined in Subsection (44).  
 1083 [~~(78)~~] (79) "Repairs or renovations of tangible personal property" means:  
 1084 (a) a repair or renovation of tangible personal property that is not permanently attached  
 1085 to real property; or  
 1086 (b) attaching tangible personal property to other tangible personal property if the other  
 1087 tangible personal property to which the tangible personal property is attached is not  
 1088 permanently attached to real property.  
 1089 [~~(79)~~] (80) "Research and development" means the process of inquiry or  
 1090 experimentation aimed at the discovery of facts, devices, technologies, or applications and the  
 1091 process of preparing those devices, technologies, or applications for marketing.  
 1092 [~~(80)~~] (81) "Residential use" means the use in or around a home, apartment building,  
 1093 sleeping quarters, and similar facilities or accommodations.  
 1094 [~~(81)~~] (82) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose  
 1095 other than:  
 1096 (a) resale;  
 1097 (b) sublease; or  
 1098 (c) subrent.  
 1099 [~~(82)~~] (83) (a) "Retailer" means any person engaged in a regularly organized business  
 1100 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),  
 1101 and who is selling to the user or consumer and not for resale.  
 1102 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
 1103 engaged in the business of selling to users or consumers within the state.  
 1104 [~~(83)~~] (84) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
 1105 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
 1106 Subsection 59-12-103(1), for consideration.  
 1107 (b) "Sale" includes:  
 1108 (i) installment and credit sales;  
 1109 (ii) any closed transaction constituting a sale;  
 1110 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this

1111 chapter;

1112 (iv) any transaction if the possession of property is transferred but the seller retains the

1113 title as security for the payment of the price; and

1114 (v) any transaction under which right to possession, operation, or use of any article of

1115 tangible personal property is granted under a lease or contract and the transfer of possession

1116 would be taxable if an outright sale were made.

1117 ~~[(84)]~~ (85) "Sale at retail" is as defined in Subsection ~~[(81)]~~ (82).

1118 ~~[(85)]~~ (86) "Sale-leaseback transaction" means a transaction by which title to tangible

1119 personal property that is subject to a tax under this chapter is transferred:

1120 (a) by a purchaser-lessee;

1121 (b) to a lessor;

1122 (c) for consideration; and

1123 (d) if:

1124 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

1125 of the tangible personal property;

1126 (ii) the sale of the tangible personal property to the lessor is intended as a form of

1127 financing:

1128 (A) for the property; and

1129 (B) to the purchaser-lessee; and

1130 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

1131 is required to:

1132 (A) capitalize the property for financial reporting purposes; and

1133 (B) account for the lease payments as payments made under a financing arrangement.

1134 ~~[(86)]~~ (87) "Sales price" is as defined in Subsection ~~[(72)]~~ (73).

1135 ~~[(87)]~~ (88) (a) "Sales relating to schools" means the following sales by, amounts paid

1136 to, or amounts charged by a school:

1137 (i) sales that are directly related to the school's educational functions or activities

1138 including:

1139 (A) the sale of:

1140 (I) textbooks;

1141 (II) textbook fees;

1142 (III) laboratory fees;  
1143 (IV) laboratory supplies; or  
1144 (V) safety equipment;  
1145 (B) the sale of a uniform, protective equipment, or sports or recreational equipment  
1146 that:  
1147 (I) a student is specifically required to wear as a condition of participation in a  
1148 school-related event or school-related activity; and  
1149 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
1150 place of ordinary clothing;  
1151 (C) sales of the following if the net or gross revenues generated by the sales are  
1152 deposited into a school district fund or school fund dedicated to school meals:  
1153 (I) food and food ingredients; or  
1154 (II) prepared food; or  
1155 (D) transportation charges for official school activities; or  
1156 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
1157 event or school-related activity.  
1158 (b) "Sales relating to schools" does not include:  
1159 (i) bookstore sales of items that are not educational materials or supplies;  
1160 (ii) except as provided in Subsection [~~(87)~~] (88)(a)(i)(B):  
1161 (A) clothing;  
1162 (B) clothing accessories or equipment;  
1163 (C) protective equipment; or  
1164 (D) sports or recreational equipment; or  
1165 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
1166 event or school-related activity if the amounts paid or charged are passed through to a person:  
1167 (A) other than a:  
1168 (I) school;  
1169 (II) nonprofit organization authorized by a school board or a governing body of a  
1170 private school to organize and direct a competitive secondary school activity; or  
1171 (III) nonprofit association authorized by a school board or a governing body of a  
1172 private school to organize and direct a competitive secondary school activity; and

1173 (B) that is required to collect sales and use taxes under this chapter.

1174 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1175 commission may make rules defining the term "passed through."

1176 ~~[(88)]~~ (89) For purposes of this section and Section 59-12-104, "school":

1177 (a) means:

1178 (i) an elementary school or a secondary school that:

1179 (A) is a:

1180 (I) public school; or

1181 (II) private school; and

1182 (B) provides instruction for one or more grades kindergarten through 12; or

1183 (ii) a public school district; and

1184 (b) includes the Electronic High School as defined in Section 53A-15-1002.

1185 ~~[(89)]~~ (90) "Seller" means a person that makes a sale, lease, or rental of:

1186 (a) tangible personal property; or

1187 (b) a service.

1188 ~~[(90)]~~ (91) (a) "Semiconductor fabricating, processing, research, or development

1189 materials" means tangible personal property:

1190 (i) used primarily in the process of:

1191 (A) (I) manufacturing a semiconductor;

1192 (II) fabricating a semiconductor; or

1193 (III) research or development of a:

1194 (Aa) semiconductor; or

1195 (Bb) semiconductor manufacturing process; or

1196 (B) maintaining an environment suitable for a semiconductor; or

1197 (ii) consumed primarily in the process of:

1198 (A) (I) manufacturing a semiconductor;

1199 (II) fabricating a semiconductor; or

1200 (III) research or development of a:

1201 (Aa) semiconductor; or

1202 (Bb) semiconductor manufacturing process; or

1203 (B) maintaining an environment suitable for a semiconductor.

1204 (b) "Semiconductor fabricating, processing, research, or development materials"  
 1205 includes:  
 1206 (i) parts used in the repairs or renovations of tangible personal property described in  
 1207 Subsection ~~[(90)]~~ (91)(a); or  
 1208 (ii) a chemical, catalyst, or other material used to:  
 1209 (A) produce or induce in a semiconductor a:  
 1210 (I) chemical change; or  
 1211 (II) physical change;  
 1212 (B) remove impurities from a semiconductor; or  
 1213 (C) improve the marketable condition of a semiconductor.  
 1214 ~~[(91)]~~ (92) "Senior citizen center" means a facility having the primary purpose of  
 1215 providing services to the aged as defined in Section 62A-3-101.  
 1216 ~~[(92)]~~ (93) "Simplified electronic return" means the electronic return:  
 1217 (a) described in Section 318(C) of the agreement; and  
 1218 (b) approved by the governing board of the agreement.  
 1219 ~~[(93)]~~ (94) "Solar energy" means the sun used as the sole source of energy for  
 1220 producing electricity.  
 1221 ~~[(94)]~~ (95) (a) "Sports or recreational equipment" means an item:  
 1222 (i) designed for human use; and  
 1223 (ii) that is:  
 1224 (A) worn in conjunction with:  
 1225 (I) an athletic activity; or  
 1226 (II) a recreational activity; and  
 1227 (B) not suitable for general use.  
 1228 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
 1229 commission shall make rules:  
 1230 (i) listing the items that constitute "sports or recreational equipment"; and  
 1231 (ii) that are consistent with the list of items that constitute "sports or recreational  
 1232 equipment" under the agreement.  
 1233 ~~[(95)]~~ (96) "State" means the state of Utah, its departments, and agencies.  
 1234 ~~[(96)]~~ (97) "Storage" means any keeping or retention of tangible personal property or



1235 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose  
1236 except sale in the regular course of business.

1237 ~~[(97)]~~ (98) (a) "Tangible personal property" means personal property that:

1238 (i) may be:

1239 (A) seen;

1240 (B) weighed;

1241 (C) measured;

1242 (D) felt; or

1243 (E) touched; or

1244 (ii) is in any manner perceptible to the senses.

1245 (b) "Tangible personal property" includes:

1246 (i) electricity;

1247 (ii) water;

1248 (iii) gas;

1249 (iv) steam; or

1250 (v) prewritten computer software.

1251 ~~[(98)]~~ (99) "Tar sands" means impregnated sands that yield mixtures of liquid

1252 hydrocarbon and require further processing other than mechanical blending before becoming  
1253 finished petroleum products.

1254 ~~[(99)]~~ (100) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1255 software" means an item listed in Subsection ~~[(99)]~~ (100)(b) if that item is purchased or leased  
1256 primarily to enable or facilitate one or more of the following to function:

1257 (i) telecommunications switching or routing equipment, machinery, or software; or

1258 (ii) telecommunications transmission equipment, machinery, or software.

1259 (b) The following apply to Subsection ~~[(99)]~~ (100)(a):

1260 (i) a pole;

1261 (ii) software;

1262 (iii) a supplementary power supply;

1263 (iv) temperature or environmental equipment or machinery;

1264 (v) test equipment;

1265 (vi) a tower; or

1266 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1267 Subsections ~~[(99)]~~ (100)(b)(i) through (vi) as determined by the commission by rule made in  
1268 accordance with Subsection ~~[(99)]~~ (100)(c).

1269 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1270 commission may by rule define what constitutes equipment, machinery, or software that  
1271 functions similarly to an item listed in Subsections ~~[(99)]~~ (100)(b)(i) through (vi).

1272 ~~[(100)]~~ (101) "Telecommunications equipment, machinery, or software required for  
1273 911 service" means equipment, machinery, or software that is required to comply with 47  
1274 C.F.R. Sec. 20.18.

1275 ~~[(101)]~~ (102) "Telecommunications maintenance or repair equipment, machinery, or  
1276 software" means equipment, machinery, or software purchased or leased primarily to maintain  
1277 or repair one or more of the following, regardless of whether the equipment, machinery, or  
1278 software is purchased or leased as a spare part or as an upgrade or modification to one or more  
1279 of the following:

1280 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1281 (b) telecommunications switching or routing equipment, machinery, or software; or

1282 (c) telecommunications transmission equipment, machinery, or software.

1283 ~~[(102)]~~ (103) (a) "Telecommunications switching or routing equipment, machinery, or  
1284 software" means an item listed in Subsection ~~[(102)]~~ (103)(b) if that item is purchased or  
1285 leased primarily for switching or routing:

1286 (i) voice communications;

1287 (ii) data communications; or

1288 (iii) telephone service.

1289 (b) The following apply to Subsection ~~[(102)]~~ (103)(a):

1290 (i) a bridge;

1291 (ii) a computer;

1292 (iii) a cross connect;

1293 (iv) a modem;

1294 (v) a multiplexer;

1295 (vi) plug in circuitry;

1296 (vii) a router;

1297 (viii) software;  
1298 (ix) a switch; or  
1299 (x) equipment, machinery, or software that functions similarly to an item listed in  
1300 Subsections [~~(102)~~] (103)(b)(i) through (ix) as determined by the commission by rule made in  
1301 accordance with Subsection [~~(102)~~] (103)(c).  
1302 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1303 commission may by rule define what constitutes equipment, machinery, or software that  
1304 functions similarly to an item listed in Subsections [~~(102)~~] (103)(b)(i) through (ix).  
1305 [~~(103)~~] (104) (a) "Telecommunications transmission equipment, machinery, or  
1306 software" means an item listed in Subsection [~~(103)~~] (104)(b) if that item is purchased or  
1307 leased primarily for sending, receiving, or transporting:  
1308 (i) voice communications;  
1309 (ii) data communications; or  
1310 (iii) telephone service.  
1311 (b) The following apply to Subsection [~~(103)~~] (104)(a):  
1312 (i) an amplifier;  
1313 (ii) a cable;  
1314 (iii) a closure;  
1315 (iv) a conduit;  
1316 (v) a controller;  
1317 (vi) a duplexer;  
1318 (vii) a filter;  
1319 (viii) an input device;  
1320 (ix) an input/output device;  
1321 (x) an insulator;  
1322 (xi) microwave machinery or equipment;  
1323 (xii) an oscillator;  
1324 (xiii) an output device;  
1325 (xiv) a pedestal;  
1326 (xv) a power converter;  
1327 (xvi) a power supply;

- 1328 (xvii) a radio channel;  
1329 (xviii) a radio receiver;  
1330 (xix) a radio transmitter;  
1331 (xx) a repeater;  
1332 (xxi) software;  
1333 (xxii) a terminal;  
1334 (xxiii) a timing unit;  
1335 (xxiv) a transformer;  
1336 (xxv) a wire; or  
1337 (xxvi) equipment, machinery, or software that functions similarly to an item listed in  
1338 Subsections ~~[(103)]~~ (104)(b)(i) through (xxv) as determined by the commission by rule made in  
1339 accordance with Subsection ~~[(103)]~~ (104)(c).
- 1340 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1341 commission may by rule define what constitutes equipment, machinery, or software that  
1342 functions similarly to an item listed in Subsections ~~[(103)]~~ (104)(b)(i) through (xxv).
- 1343 ~~[(104)]~~ (105) (a) "Telephone service" means a two-way transmission:  
1344 (i) by:  
1345 (A) wire;  
1346 (B) radio;  
1347 (C) lightwave; or  
1348 (D) other electromagnetic means; and  
1349 (ii) of one or more of the following:  
1350 (A) a sign;  
1351 (B) a signal;  
1352 (C) writing;  
1353 (D) an image;  
1354 (E) sound;  
1355 (F) a message;  
1356 (G) data; or  
1357 (H) other information of any nature.  
1358 (b) "Telephone service" includes:

1359 (i) mobile telecommunications service;  
1360 (ii) private communications service; or  
1361 (iii) automated digital telephone answering service.

1362 (c) "Telephone service" does not include a service or a transaction that a state or a  
1363 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet  
1364 Tax Freedom Act, Pub. L. No. 105-277.

1365 [~~(105)~~] (106) Notwithstanding where a call is billed or paid, "telephone service  
1366 address" means:

1367 (a) if the location described in this Subsection [~~(105)~~] (106)(a) is known, the location  
1368 of the telephone service equipment:

1369 (i) to which a call is charged; and  
1370 (ii) from which the call originates or terminates;

1371 (b) if the location described in Subsection [~~(105)~~] (106)(a) is not known but the  
1372 location described in this Subsection [~~(105)~~] (106)(b) is known, the location of the origination  
1373 point of the signal of the telephone service first identified by:

1374 (i) the telecommunications system of the seller; or  
1375 (ii) if the system used to transport the signal is not that of the seller, information  
1376 received by the seller from its service provider; or

1377 (c) if the locations described in Subsection [~~(105)~~] (106)(a) or (b) are not known, the  
1378 location of a purchaser's primary place of use.

1379 [~~(106)~~] (107) (a) "Telephone service provider" means a person that:

1380 (i) owns, controls, operates, or manages a telephone service; and  
1381 (ii) engages in an activity described in Subsection [~~(106)~~] (107)(a)(i) for the shared use  
1382 with or resale to any person of the telephone service.

1383 (b) A person described in Subsection [~~(106)~~] (107)(a) is a telephone service provider  
1384 whether or not the Public Service Commission of Utah regulates:

1385 (i) that person; or  
1386 (ii) the telephone service that the person owns, controls, operates, or manages.

1387 [~~(107)~~] (108) "Tobacco" means:

1388 (a) a cigarette;  
1389 (b) a cigar;

1390 (c) chewing tobacco;

1391 (d) pipe tobacco; or

1392 (e) any other item that contains tobacco.

1393 ~~[(108)]~~ (109) "Unassisted amusement device" means an amusement device, skill

1394 device, or ride device that is started and stopped by the purchaser or renter of the right to use or  
1395 operate the amusement device, skill device, or ride device.

1396 ~~[(109)]~~ (110) (a) "Use" means the exercise of any right or power over tangible personal

1397 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that

1398 property, item, or service.

1399 (b) "Use" does not include the sale, display, demonstration, or trial of that property in

1400 the regular course of business and held for resale.

1401 ~~[(110)]~~ (111) (a) Subject to Subsection ~~[(110)]~~ (111)(b), "vehicle" means the following

1402 that are required to be titled, registered, or titled and registered:

1403 (i) an aircraft as defined in Section 72-10-102;

1404 (ii) a vehicle as defined in Section 41-1a-102;

1405 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1406 (iv) a vessel as defined in Section 41-1a-102.

1407 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1408 (i) a vehicle described in Subsection ~~[(110)]~~ (111)(a); or

1409 (ii) (A) a locomotive;

1410 (B) a freight car;

1411 (C) railroad work equipment; or

1412 (D) other railroad rolling stock.

1413 ~~[(111)]~~ (112) "Vehicle dealer" means a person engaged in the business of buying,

1414 selling, or exchanging a vehicle as defined in Subsection ~~[(110)]~~ (111).

1415 ~~[(112)]~~ (113) (a) Except as provided in Subsection ~~[(112)]~~ (113)(b), "waste energy

1416 facility" means a facility that generates electricity:

1417 (i) using as the primary source of energy waste materials that would be placed in a

1418 landfill or refuse pit if it were not used to generate electricity, including:

1419 (A) tires;

1420 (B) waste coal; or

- 1421 (C) oil shale; and  
1422 (ii) in amounts greater than actually required for the operation of the facility.  
1423 (b) "Waste energy facility" does not include a facility that incinerates:  
1424 (i) municipal solid waste;  
1425 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or  
1426 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.  
1427 [~~(H3)~~] (114) "Watercraft" means a vessel as defined in Section 73-18-2.  
1428 [~~(H4)~~] (115) "Wind energy" means wind used as the sole source of energy to produce  
1429 electricity.  
1430 [~~(H5)~~] (116) "ZIP Code" means a Zoning Improvement Plan Code assigned to a  
1431 geographic location by the United States Postal Service.  
1432 Section 6. Section **59-12-104** is amended to read:  
1433 **59-12-104. Exemptions.**  
1434 The following sales and uses are exempt from the taxes imposed by this chapter:  
1435 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
1436 under Chapter 13, Motor and Special Fuel Tax Act;  
1437 (2) sales to the state, its institutions, and its political subdivisions; however, this  
1438 exemption does not apply to sales of:  
1439 (a) construction materials except:  
1440 (i) construction materials purchased by or on behalf of institutions of the public  
1441 education system as defined in Utah Constitution Article X, Section 2, provided the  
1442 construction materials are clearly identified and segregated and installed or converted to real  
1443 property which is owned by institutions of the public education system; and  
1444 (ii) construction materials purchased by the state, its institutions, or its political  
1445 subdivisions which are installed or converted to real property by employees of the state, its  
1446 institutions, or its political subdivisions; or  
1447 (b) tangible personal property in connection with the construction, operation,  
1448 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
1449 providing additional project capacity, as defined in Section 11-13-103;  
1450 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:  
1451 (i) the proceeds of each sale do not exceed \$1; and

1452           (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
1453 the cost of the item described in Subsection (3)(b) as goods consumed; and

1454           (b) Subsection (3)(a) applies to:

1455           (i) food and food ingredients; or

1456           (ii) prepared food;

1457           (4) sales of the following to a commercial airline carrier for in-flight consumption:

1458           (a) food and food ingredients;

1459           (b) prepared food; or

1460           (c) services related to Subsection (4)(a) or (b);

1461           (5) sales of parts and equipment for installation in aircraft operated by common carriers  
1462 in interstate or foreign commerce;

1463           (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
1464 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
1465 exhibitor, distributor, or commercial television or radio broadcaster;

1466           (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal  
1467 property if the cleaning or washing of the tangible personal property is not assisted cleaning or  
1468 washing of tangible personal property;

1469           (b) if a seller that sells at the same business location assisted cleaning or washing of  
1470 tangible personal property and cleaning or washing of tangible personal property that is not  
1471 assisted cleaning or washing of tangible personal property, the exemption described in  
1472 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
1473 or washing of the tangible personal property; and

1474           (c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a,  
1475 Utah Administrative Rulemaking Act, the commission may make rules:

1476           (i) governing the circumstances under which sales are at the same business location;  
1477 and

1478           (ii) establishing the procedures and requirements for a seller to separately account for  
1479 sales of assisted cleaning or washing of tangible personal property;

1480           (8) sales made to or by religious or charitable institutions in the conduct of their regular  
1481 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
1482 fulfilled;



1483 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of  
1484 this state if the vehicle is:

1485 (a) not registered in this state; and

1486 (b) (i) not used in this state; or

1487 (ii) used in this state:

1488 (A) if the vehicle is not used to conduct business, for a time period that does not  
1489 exceed the longer of:

1490 (I) 30 days in any calendar year; or

1491 (II) the time period necessary to transport the vehicle to the borders of this state; or

1492 (B) if the vehicle is used to conduct business, for the time period necessary to transport  
1493 the vehicle to the borders of this state;

1494 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1495 (i) the item is intended for human use; and

1496 (ii) (A) a prescription was issued for the item; or

1497 (B) the item was purchased by a hospital or other medical facility; and

1498 (b) (i) Subsection (10)(a) applies to:

1499 (A) a drug;

1500 (B) a syringe; or

1501 (C) a stoma supply; and

1502 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1503 commission may by rule define the terms:

1504 (A) "syringe"; or

1505 (B) "stoma supply";

1506 (11) sales or use of property, materials, or services used in the construction of or  
1507 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

1508 (12) (a) sales of an item described in Subsection (12)(c) served by:

1509 (i) the following if the item described in Subsection (12)(c) is not available to the  
1510 general public:

1511 (A) a church; or

1512 (B) a charitable institution;

1513 (ii) an institution of higher education if:

1514 (A) the item described in Subsection (12)(c) is not available to the general public; or  
1515 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan  
1516 offered by the institution of higher education; or  
1517 (b) sales of an item described in Subsection (12)(c) provided for a patient by:  
1518 (i) a medical facility; or  
1519 (ii) a nursing facility; and  
1520 (c) Subsections (12)(a) and (b) apply to:  
1521 (i) food and food ingredients;  
1522 (ii) prepared food; or  
1523 (iii) alcoholic beverages;  
1524 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property  
1525 by a person:  
1526 (i) regardless of the number of transactions involving the sale of that tangible personal  
1527 property by that person; and  
1528 (ii) not regularly engaged in the business of selling that type of tangible personal  
1529 property;  
1530 (b) this Subsection (13) does not apply if:  
1531 (i) the sale is one of a series of sales of a character to indicate that the person is  
1532 regularly engaged in the business of selling that type of tangible personal property;  
1533 (ii) the person holds that person out as regularly engaged in the business of selling that  
1534 type of tangible personal property;  
1535 (iii) the person sells an item of tangible personal property that the person purchased as  
1536 a sale that is exempt under Subsection (25); or  
1537 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of  
1538 this state in which case the tax is based upon:  
1539 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
1540 sold; or  
1541 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
1542 value of the vehicle or vessel being sold at the time of the sale as determined by the  
1543 commission; and  
1544 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1545 commission shall make rules establishing the circumstances under which:

1546 (i) a person is regularly engaged in the business of selling a type of tangible personal  
1547 property;

1548 (ii) a sale of tangible personal property is one of a series of sales of a character to  
1549 indicate that a person is regularly engaged in the business of selling that type of tangible  
1550 personal property; or

1551 (iii) a person holds that person out as regularly engaged in the business of selling a type  
1552 of tangible personal property;

1553 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after  
1554 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration  
1555 facility, for the following:

1556 (i) machinery and equipment that:

1557 (A) is used:

1558 (I) for a manufacturing facility other than a manufacturing facility that is a scrap  
1559 recycler described in Subsection 59-12-102(48)(b):

1560 (Aa) in the manufacturing process; and

1561 (Bb) to manufacture an item sold as tangible personal property; or

1562 (II) for a manufacturing facility that is a scrap recycler described in Subsection  
1563 59-12-102(48)(b), to process an item sold as tangible personal property; and

1564 (B) has an economic life of three or more years; and

1565 (ii) normal operating repair or replacement parts that:

1566 (A) have an economic life of three or more years; and

1567 (B) are used:

1568 (I) for a manufacturing facility in the state other than a manufacturing facility that is a  
1569 scrap recycler described in Subsection 59-12-102(48)(b), in the manufacturing process; or

1570 (II) for a manufacturing facility in the state that is a scrap recycler described in  
1571 Subsection 59-12-102(48)(b), to process an item sold as tangible personal property;

1572 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a  
1573 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,  
1574 for the following:

1575 (A) machinery and equipment that:

1576 (I) is used:  
1577 (Aa) in the manufacturing process; and  
1578 (Bb) to manufacture an item sold as tangible personal property; and  
1579 (II) has an economic life of three or more years; and  
1580 (B) normal operating repair or replacement parts that:  
1581 (I) are used in the manufacturing process in a manufacturing facility in the state; and  
1582 (II) have an economic life of three or more years; and  
1583 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,  
1584 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may  
1585 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:  
1586 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;  
1587 and  
1588 (B) in accordance with Section 59-12-110;  
1589 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,  
1590 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or  
1591 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for  
1592 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,  
1593 of the 2002 North American Industry Classification System of the federal Executive Office of  
1594 the President, Office of Management and Budget:  
1595 (i) machinery and equipment that:  
1596 (A) are used in:  
1597 (I) the production process, other than the production of real property; or  
1598 (II) research and development; and  
1599 (B) have an economic life of three or more years; and  
1600 (ii) normal operating repair or replacement parts that:  
1601 (A) have an economic life of three or more years; and  
1602 (B) are used in:  
1603 (I) the production process, other than the production of real property, in an  
1604 establishment described in this Subsection (14)(c) in the state; or  
1605 (II) research and development in an establishment described in this Subsection (14)(c)  
1606 in the state;

1607 (d) for purposes of this Subsection (14) and in accordance with Title 63, Chapter 46a,  
1608 Utah Administrative Rulemaking Act, the commission:

1609 (i) shall by rule define the term "establishment"; and

1610 (ii) may by rule define what constitutes:

1611 (A) processing an item sold as tangible personal property;

1612 (B) the production process, other than the production of real property; or

1613 (C) research and development; and

1614 (e) on or before October 1, 2011, and every five years after October 1, 2011, the  
1615 commission shall:

1616 (i) review the exemptions described in this Subsection (14) and make  
1617 recommendations to the Revenue and Taxation Interim Committee concerning whether the  
1618 exemptions should be continued, modified, or repealed; and

1619 (ii) include in its report:

1620 (A) the cost of the exemptions;

1621 (B) the purpose and effectiveness of the exemptions; and

1622 (C) the benefits of the exemptions to the state;

1623 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

1624 (i) tooling;

1625 (ii) special tooling;

1626 (iii) support equipment;

1627 (iv) special test equipment; or

1628 (v) parts used in the repairs or renovations of tooling or equipment described in

1629 Subsections (15)(a)(i) through (iv); and

1630 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

1631 (i) the tooling, equipment, or parts are used or consumed exclusively in the

1632 performance of any aerospace or electronics industry contract with the United States

1633 government or any subcontract under that contract; and

1634 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

1635 title to the tooling, equipment, or parts is vested in the United States government as evidenced

1636 by:

1637 (A) a government identification tag placed on the tooling, equipment, or parts; or

1638 (B) listing on a government-approved property record if placing a government  
1639 identification tag on the tooling, equipment, or parts is impractical;

1640 (16) sales of newspapers or newspaper subscriptions;

1641 (17) (a) except as provided in Subsection (17)(b), tangible personal property traded in  
1642 as full or part payment of the purchase price, except that for purposes of calculating sales or use  
1643 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and  
1644 the tax is based upon:

1645 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
1646 vehicle being traded in; or

1647 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
1648 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
1649 commission; and

1650 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the  
1651 following items of tangible personal property traded in as full or part payment of the purchase  
1652 price:

1653 (i) money;

1654 (ii) electricity;

1655 (iii) water;

1656 (iv) gas; or

1657 (v) steam;

1658 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
1659 used or consumed primarily and directly in farming operations, regardless of whether the  
1660 tangible personal property:

1661 (A) becomes part of real estate; or

1662 (B) is installed by a:

1663 (I) farmer;

1664 (II) contractor; or

1665 (III) subcontractor; or

1666 (ii) sales of parts used in the repairs or renovations of tangible personal property if the  
1667 tangible personal property is exempt under Subsection (18)(a)(i); and

1668 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following

1669 tangible personal property are subject to the taxes imposed by this chapter:

1670 (i) (A) subject to Subsection (18)(b)(i)(B), the following tangible personal property if

1671 the tangible personal property is used in a manner that is incidental to farming:

1672 (I) machinery;

1673 (II) equipment;

1674 (III) materials; or

1675 (IV) supplies; and

1676 (B) tangible personal property that is considered to be used in a manner that is

1677 incidental to farming includes:

1678 (I) hand tools; or

1679 (II) maintenance and janitorial equipment and supplies;

1680 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property if the tangible

1681 personal property is used in an activity other than farming; and

1682 (B) tangible personal property that is considered to be used in an activity other than

1683 farming includes:

1684 (I) office equipment and supplies; or

1685 (II) equipment and supplies used in:

1686 (Aa) the sale or distribution of farm products;

1687 (Bb) research; or

1688 (Cc) transportation; or

1689 (iii) a vehicle required to be registered by the laws of this state during the period

1690 ending two years after the date of the vehicle's purchase;

1691 (19) sales of hay;

1692 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or

1693 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

1694 garden, farm, or other agricultural produce is sold by:

1695 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

1696 agricultural produce;

1697 (b) an employee of the producer described in Subsection (20)(a); or

1698 (c) a member of the immediate family of the producer described in Subsection (20)(a);

1699 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

1700 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1701 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

1702 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

1703 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

1704 manufacturer, processor, wholesaler, or retailer;

1705 (23) property stored in the state for resale;

1706 (24) (a) purchases of property if:

1707 (i) the property is:

1708 (A) purchased outside of this state;

1709 (B) brought into this state:

1710 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

1711 (II) by a nonresident person who is not living or working in this state at the time of the

1712 purchase;

1713 (C) used for the personal use or enjoyment of the nonresident person described in

1714 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

1715 (D) not used in conducting business in this state; and

1716 (ii) for:

1717 (A) property other than the property described in Subsection (24)(a)(ii)(B), the first use

1718 of the property for a purpose for which the property is designed occurs outside of this state;

1719 (B) a boat, the boat is registered outside of this state; or

1720 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

1721 outside of this state;

1722 (b) the exemption provided for in Subsection (24)(a) does not apply to:

1723 (i) a lease or rental of property; or

1724 (ii) a sale of a vehicle exempt under Subsection (33); and

1725 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for

1726 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

1727 following:

1728 (i) conducting business in this state if that phrase has the same meaning in this

1729 Subsection (24) as in Subsection (66);

1730 (ii) the first use of property if that phrase has the same meaning in this Subsection (24)



1731 as in Subsection (66); or

1732 (iii) a purpose for which property is designed if that phrase has the same meaning in  
1733 this Subsection (24) as in Subsection (66);

1734 (25) property purchased for resale in this state, in the regular course of business, either  
1735 in its original form or as an ingredient or component part of a manufactured or compounded  
1736 product;

1737 (26) property upon which a sales or use tax was paid to some other state, or one of its  
1738 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
1739 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
1740 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
1741 Act;

1742 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
1743 person for use in compounding a service taxable under the subsections;

1744 (28) purchases made in accordance with the special supplemental nutrition program for  
1745 women, infants, and children established in 42 U.S.C. Sec. 1786;

1746 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
1747 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens  
1748 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification  
1749 Manual of the federal Executive Office of the President, Office of Management and Budget;

1750 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
1751 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

1752 (a) not registered in this state; and

1753 (b) (i) not used in this state; or

1754 (ii) used in this state:

1755 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
1756 time period that does not exceed the longer of:

1757 (I) 30 days in any calendar year; or

1758 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
1759 the borders of this state; or

1760 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
1761 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this

1762 state;

1763 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah

1764 where a sales or use tax is not imposed, even if the title is passed in Utah;

1765 (32) amounts paid for the purchase of telephone service for purposes of providing

1766 telephone service;

1767 (33) sales, leases, or uses of the following:

1768 (a) a vehicle by an authorized carrier; or

1769 (b) tangible personal property that is installed on a vehicle:

1770 (i) sold or leased to or used by an authorized carrier; and

1771 (ii) before the vehicle is placed in service for the first time;

1772 (34) (a) 45% of the sales price of any new manufactured home; and

1773 (b) 100% of the sales price of any used manufactured home;

1774 (35) sales relating to schools and fundraising sales;

1775 (36) sales or rentals of durable medical equipment if:

1776 (a) a person presents a prescription for the durable medical equipment; and

1777 (b) the durable medical equipment is used for home use only;

1778 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in

1779 Section 72-11-102; and

1780 (b) the commission shall by rule determine the method for calculating sales exempt

1781 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

1782 (38) sales to a ski resort of:

1783 (a) snowmaking equipment;

1784 (b) ski slope grooming equipment;

1785 (c) passenger ropeways as defined in Section 72-11-102; or

1786 (d) parts used in the repairs or renovations of equipment or passenger ropeways

1787 described in Subsections (38)(a) through (c);

1788 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

1789 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for

1790 amusement, entertainment, or recreation an unassisted amusement device as defined in Section

1791 59-12-102;

1792 (b) if a seller that sells or rents at the same business location the right to use or operate

1793 for amusement, entertainment, or recreation one or more unassisted amusement devices and  
1794 one or more assisted amusement devices, the exemption described in Subsection (40)(a)  
1795 applies if the seller separately accounts for the sales or rentals of the right to use or operate for  
1796 amusement, entertainment, or recreation for the assisted amusement devices; and

1797 (c) for purposes of Subsection (40)(b) and in accordance with Title 63, Chapter 46a,  
1798 Utah Administrative Rulemaking Act, the commission may make rules:

1799 (i) governing the circumstances under which sales are at the same business location;  
1800 and

1801 (ii) establishing the procedures and requirements for a seller to separately account for  
1802 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for  
1803 assisted amusement devices;

1804 (41) (a) sales of photocopies by:

1805 (i) a governmental entity; or

1806 (ii) an entity within the state system of public education, including:

1807 (A) a school; or

1808 (B) the State Board of Education; or

1809 (b) sales of publications by a governmental entity;

1810 (42) amounts paid for admission to an athletic event at an institution of higher  
1811 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
1812 20 U.S.C. Sec. 1681 et seq.;

1813 (43) sales of telephone service charged to a prepaid telephone calling card;

1814 (44) (a) sales of:

1815 (i) hearing aids;

1816 (ii) hearing aid accessories; or

1817 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations  
1818 of hearing aids or hearing aid accessories; and

1819 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),  
1820 "parts" does not include batteries;

1821 (45) (a) sales made to or by:

1822 (i) an area agency on aging; or

1823 (ii) a senior citizen center owned by a county, city, or town; or

1824 (b) sales made by a senior citizen center that contracts with an area agency on aging;  
1825 (46) sales or leases of semiconductor fabricating, processing, research, or development  
1826 materials regardless of whether the semiconductor fabricating, processing, research, or  
1827 development materials:  
1828 (a) actually come into contact with a semiconductor; or  
1829 (b) ultimately become incorporated into real property;  
1830 (47) an amount paid by or charged to a purchaser for accommodations and services  
1831 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
1832 59-12-104.2;  
1833 (48) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary  
1834 sports event registration certificate in accordance with Section 41-3-306 for the event period  
1835 specified on the temporary sports event registration certificate;  
1836 (49) sales or uses of electricity, if the sales or uses are:  
1837 (a) made under a tariff adopted by the Public Service Commission of Utah only for  
1838 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy  
1839 source, as designated in the tariff by the Public Service Commission of Utah; and  
1840 (b) for an amount of electricity that is:  
1841 (i) unrelated to the amount of electricity used by the person purchasing the electricity  
1842 under the tariff described in Subsection (49)(a); and  
1843 (ii) equivalent to the number of kilowatthours specified in the tariff described in  
1844 Subsection (49)(a) that may be purchased under the tariff described in Subsection (49)(a);  
1845 (50) sales or rentals of mobility enhancing equipment if a person presents a  
1846 prescription for the mobility enhancing equipment;  
1847 (51) sales of water in a:  
1848 (a) pipe;  
1849 (b) conduit;  
1850 (c) ditch; or  
1851 (d) reservoir;  
1852 (52) sales of currency or coinage that constitute legal tender of the United States or of a  
1853 foreign nation;  
1854 (53) (a) sales of an item described in Subsection (53)(b) if the item:

- 1855 (i) does not constitute legal tender of any nation; and  
1856 (ii) has a gold, silver, or platinum content of 80% or more; and  
1857 (b) Subsection (53)(a) applies to a gold, silver, or platinum:  
1858 (i) ingot;  
1859 (ii) bar;  
1860 (iii) medallion; or  
1861 (iv) decorative coin;  
1862 (54) amounts paid on a sale-leaseback transaction;  
1863 (55) sales of a prosthetic device:  
1864 (a) for use on or in a human;  
1865 (b) for which a prescription is issued; and  
1866 (c) to a person that presents a prescription for the prosthetic device;  
1867 (56) (a) except as provided in Subsection (56)(b), purchases, leases, or rentals of  
1868 machinery or equipment by an establishment described in Subsection (56)(c) if the machinery  
1869 or equipment is primarily used in the production or postproduction of the following media for  
1870 commercial distribution:  
1871 (i) a motion picture;  
1872 (ii) a television program;  
1873 (iii) a movie made for television;  
1874 (iv) a music video;  
1875 (v) a commercial;  
1876 (vi) a documentary; or  
1877 (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the  
1878 commission by administrative rule made in accordance with Subsection (56)(d); or  
1879 (b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or  
1880 equipment by an establishment described in Subsection (56)(c) that is used for the production  
1881 or postproduction of the following are subject to the taxes imposed by this chapter:  
1882 (i) a live musical performance;  
1883 (ii) a live news program; or  
1884 (iii) a live sporting event;  
1885 (c) the following establishments listed in the 1997 North American Industry

1886 Classification System of the federal Executive Office of the President, Office of Management  
1887 and Budget, apply to Subsections (56)(a) and (b):  
1888 (i) NAICS Code 512110; or  
1889 (ii) NAICS Code 51219; and  
1890 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1891 commission may by rule:  
1892 (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);  
1893 or  
1894 (ii) define:  
1895 (A) "commercial distribution";  
1896 (B) "live musical performance";  
1897 (C) "live news program"; or  
1898 (D) "live sporting event";  
1899 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on  
1900 or before June 30, 2009, of machinery or equipment that:  
1901 (i) is leased or purchased for or by a facility that:  
1902 (A) is a renewable energy production facility;  
1903 (B) is located in the state; and  
1904 (C) (I) becomes operational on or after July 1, 2004; or  
1905 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
1906 2004 as a result of the use of the machinery or equipment;  
1907 (ii) has an economic life of five or more years; and  
1908 (iii) is used to make the facility or the increase in capacity of the facility described in  
1909 Subsection (57)(a)(i) operational up to the point of interconnection with an existing  
1910 transmission grid including:  
1911 (A) a wind turbine;  
1912 (B) generating equipment;  
1913 (C) a control and monitoring system;  
1914 (D) a power line;  
1915 (E) substation equipment;  
1916 (F) lighting;

1917 (G) fencing;  
1918 (H) pipes; or  
1919 (I) other equipment used for locating a power line or pole; and  
1920 (b) this Subsection (57) does not apply to:  
1921 (i) machinery or equipment used in construction of:  
1922 (A) a new renewable energy production facility; or  
1923 (B) the increase in the capacity of a renewable energy production facility;  
1924 (ii) contracted services required for construction and routine maintenance activities;  
1925 and  
1926 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
1927 of the facility described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or  
1928 acquired after:  
1929 (A) the renewable energy production facility described in Subsection (57)(a)(i) is  
1930 operational as described in Subsection (57)(a)(iii); or  
1931 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described  
1932 in Subsection (57)(a)(iii);  
1933 (58) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on  
1934 or before June 30, 2009, of machinery or equipment that:  
1935 (i) is leased or purchased for or by a facility that:  
1936 (A) is a waste energy production facility;  
1937 (B) is located in the state; and  
1938 (C) (I) becomes operational on or after July 1, 2004; or  
1939 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
1940 2004 as a result of the use of the machinery or equipment;  
1941 (ii) has an economic life of five or more years; and  
1942 (iii) is used to make the facility or the increase in capacity of the facility described in  
1943 Subsection (58)(a)(i) operational up to the point of interconnection with an existing  
1944 transmission grid including:  
1945 (A) generating equipment;  
1946 (B) a control and monitoring system;  
1947 (C) a power line;

1948 (D) substation equipment;  
 1949 (E) lighting;  
 1950 (F) fencing;  
 1951 (G) pipes; or  
 1952 (H) other equipment used for locating a power line or pole; and  
 1953 (b) this Subsection (58) does not apply to:  
 1954 (i) machinery or equipment used in construction of:  
 1955 (A) a new waste energy facility; or  
 1956 (B) the increase in the capacity of a waste energy facility;  
 1957 (ii) contracted services required for construction and routine maintenance activities;  
 1958 and  
 1959 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
 1960 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:  
 1961 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as  
 1962 described in Subsection (58)(a)(iii); or  
 1963 (B) the increased capacity described in Subsection (58)(a)(i) is operational as described  
 1964 in Subsection (58)(a)(iii);  
 1965 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on  
 1966 or before June 30, 2009, of machinery or equipment that:  
 1967 (i) is leased or purchased for or by a facility that:  
 1968 (A) is located in the state;  
 1969 (B) produces fuel from biomass energy including:  
 1970 (I) methanol; or  
 1971 (II) ethanol; and  
 1972 (C) (I) becomes operational on or after July 1, 2004; or  
 1973 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as  
 1974 a result of the installation of the machinery or equipment;  
 1975 (ii) has an economic life of five or more years; and  
 1976 (iii) is installed on the facility described in Subsection (59)(a)(i);  
 1977 (b) this Subsection (59) does not apply to:  
 1978 (i) machinery or equipment used in construction of:



1979 (A) a new facility described in Subsection (59)(a)(i); or  
1980 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or  
1981 (ii) contracted services required for construction and routine maintenance activities;  
1982 and  
1983 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
1984 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:  
1985 (A) the facility described in Subsection (59)(a)(i) is operational; or  
1986 (B) the increased capacity described in Subsection (59)(a)(i) is operational;  
1987 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle  
1988 for purchasing the new vehicle;  
1989 (61) (a) subject to Subsection (61)(b), sales of tangible personal property to persons  
1990 within this state that is subsequently shipped outside the state and incorporated pursuant to  
1991 contract into and becomes a part of real property located outside of this state, except to the  
1992 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar  
1993 transaction excise tax on it against which the other state or political entity allows a credit for  
1994 taxes imposed by this chapter; and  
1995 (b) the exemption provided for in Subsection (61)(a):  
1996 (i) is allowed only if the exemption is applied:  
1997 (A) in calculating the purchase price of the tangible personal property; and  
1998 (B) to a written contract that is in effect on July 1, 2004; and  
1999 (ii) (A) does not apply beginning on the day on which the contract described in  
2000 Subsection (61)(b)(i):  
2001 (I) is substantially modified; or  
2002 (II) terminates; and  
2003 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
2004 the commission may by rule prescribe the circumstances under which a contract is substantially  
2005 modified;  
2006 (62) purchases:  
2007 (a) of one or more of the following items in printed or electronic format:  
2008 (i) a list containing information that includes one or more:  
2009 (A) names; or

2010 (B) addresses; or  
2011 (ii) a database containing information that includes one or more:  
2012 (A) names; or  
2013 (B) addresses; and  
2014 (b) used to send direct mail;  
2015 (63) redemptions or repurchases of property by a person if that property was:  
2016 (a) delivered to a pawnbroker as part of a pawn transaction; and  
2017 (b) redeemed or repurchased within the time period established in a written agreement  
2018 between the person and the pawnbroker for redeeming or repurchasing the property;  
2019 (64) (a) purchases or leases of an item described in Subsection (64)(b) if the item:  
2020 (i) is purchased or leased by, or on behalf of, a telephone service provider; and  
2021 (ii) has a useful economic life of one or more years; and  
2022 (b) the following apply to Subsection (64)(a):  
2023 (i) telecommunications enabling or facilitating equipment, machinery, or software;  
2024 (ii) telecommunications equipment, machinery, or software required for 911 service;  
2025 (iii) telecommunications maintenance or repair equipment, machinery, or software;  
2026 (iv) telecommunications switching or routing equipment, machinery, or software; or  
2027 (v) telecommunications transmission equipment, machinery, or software;  
2028 (65) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible  
2029 personal property used in the research and development of coal-to-liquids, oil shale, or tar  
2030 sands technology; and  
2031 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
2032 commission may, for purposes of Subsection (65)(a), make rules defining what constitutes  
2033 tangible personal property used in the research and development of coal-to-liquids, oil shale,  
2034 and tar sands technology;  
2035 (66) (a) purchases of property if:  
2036 (i) the property is:  
2037 (A) purchased outside of this state;  
2038 (B) brought into this state at any time after the purchase described in Subsection  
2039 (66)(a)(i)(A); and  
2040 (C) used in conducting business in this state; and

2041 (ii) for:

2042 (A) property other than the property described in Subsection (66)(a)(ii)(B), the first use

2043 of the property for a purpose for which the property is designed occurs outside of this state; or

2044 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

2045 outside of this state;

2046 (b) the exemption provided for in Subsection (66)(a) does not apply to:

2047 (i) a lease or rental of property; or

2048 (ii) a sale of a vehicle exempt under Subsection (33); and

2049 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for

2050 purposes of Subsection (66)(a), the commission may by rule define what constitutes the

2051 following:

2052 (i) conducting business in this state if that phrase has the same meaning in this

2053 Subsection (66) as in Subsection (24);

2054 (ii) the first use of property if that phrase has the same meaning in this Subsection (66)

2055 as in Subsection (24); or

2056 (iii) a purpose for which property is designed if that phrase has the same meaning in

2057 this Subsection (66) as in Subsection (24);

2058 (67) sales of disposable home medical equipment or supplies if:

2059 (a) a person presents a prescription for the disposable home medical equipment or

2060 supplies;

2061 (b) the disposable home medical equipment or supplies are used exclusively by the

2062 person to whom the prescription described in Subsection (67)(a) is issued; and

2063 (c) the disposable home medical equipment and supplies are listed as eligible for

2064 payment under:

2065 (i) Title XVIII, federal Social Security Act; or

2066 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

2067 [~~and~~]

2068 (68) sales to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

2069 District Act, or to a subcontractor of a public transit district, including sales of construction

2070 materials that are to be installed or converted to real property owned by the public transit

2071 district[-]; and

2072           (69) amounts paid by a privately owned golf course for the following if the following  
2073 are predominantly used in operating the privately owned golf course:

2074           (a) equipment;

2075           (b) machinery;

2076           (c) a supply; or

2077           (d) a repair or replacement part.

2078           Section 7. Section **63-38-9** is amended to read:

2079           **63-38-9. Revenue types -- Disposition of funds collected or credited by a state**

2080 **agency.**

2081           (1) (a) The revenues enumerated in this section are established as major revenue types.

2082           (b) The Division of Finance shall:

2083           (i) account for revenues in accordance with generally accepted accounting principles;

2084           and

2085           (ii) use the major revenue types in internal accounting.

2086           (c) Each agency shall:

2087           (i) use the major revenue types enumerated in this section to account for revenues;

2088           (ii) deposit revenues and other public funds received by them by following the

2089 procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

2090           (iii) expend revenues and public funds as required by this chapter.

2091           (2) The major revenue types are:

2092           (a) free revenue;

2093           (b) restricted revenue;

2094           (c) dedicated credits; and

2095           (d) fixed collections.

2096           (3) (a) Free revenue includes:

2097           (i) collections that are required by law to be deposited in the General Fund, the

2098 Education Fund, the Uniform School Fund, or the Transportation Fund;

2099           (ii) collections that are not otherwise designated by law;

2100           (iii) collections that are not externally restricted; and

2101           (iv) collections that are not included in an approved work program.

2102           (b) Each agency shall deposit its free revenues into the appropriate fund.

2103 (c) An agency may expend free revenues up to the amount specifically appropriated by  
2104 the Legislature.

2105 (d) Any free revenue funds appropriated by the Legislature to an agency that remain  
2106 unexpended at the end of the fiscal year lapse to the source fund unless the Legislature provides  
2107 by law that those funds are nonlapsing.

2108 (4) (a) Restricted revenues are collections deposited by law into a separate fund or  
2109 subfund that are designated for a specific program or purpose.

2110 (b) Each agency shall deposit its restricted revenues into a restricted fund.

2111 (c) The Legislature may appropriate restricted revenues from a restricted fund for the  
2112 specific purpose or program designated by law.

2113 (d) If the fund equity of a restricted fund is insufficient to provide the funds  
2114 appropriated from it by the Legislature, the Division of Finance may reduce the appropriation  
2115 to a level that ensures that the fund equity is not less than zero.

2116 (e) Any restricted revenue funds appropriated by the Legislature to an agency that  
2117 remain unexpended at the end of the fiscal year lapse to the restricted fund unless the  
2118 Legislature provides by law that those funds, or the program or line item financed by those  
2119 funds, are nonlapsing.

2120 (5) (a) Dedicated credits and federal revenues are collections by an agency that are  
2121 deposited directly into an account for expenditure on a separate line item and program.

2122 (b) An agency may expend dedicated credits for any purpose within the program or line  
2123 item.

2124 (c) (i) An agency may expend dedicated credits in excess of the amount appropriated as  
2125 dedicated credits by the Legislature by following the procedures contained in this Subsection  
2126 (5)(c).

2127 (ii) The agency shall develop a new work program and the justification for the work  
2128 program and submit it to the Division of Finance and the director of the Governor's Office of  
2129 Planning and Budget. Except for ~~[monies deposited as dedicated credits in the Drug Stamp~~  
2130 ~~Tax Fund under Section 59-19-105 or]~~ line items covering tuition and federal vocational funds  
2131 at institutions of higher learning, any expenditure of dedicated credits in excess of amounts  
2132 appropriated as dedicated credits by the Legislature may not be used to permanently increase  
2133 personnel within the agency unless approved by the Legislature.

2134 (iii) The Division of Finance and the director of the Governor's Office of Planning and  
2135 Budget shall review the program and submit their findings and recommendations to the  
2136 governor.

2137 (iv) The governor may authorize the agency to expend its excess dedicated credits by  
2138 approving the submitted work program.

2139 (v) The state's fiscal officer shall notify the Legislature by providing notice of the  
2140 governor's action to the Office of Legislative Fiscal Analyst.

2141 (d) (i) All excess dedicated credits lapse to the appropriate fund at the end of the fiscal  
2142 year unless the Legislature has designated the entire program or line item that is partially or  
2143 fully funded from dedicated credits as nonlapsing.

2144 (ii) The Division of Finance shall determine the appropriate fund into which the  
2145 dedicated credits lapse.

2146 (6) (a) Fixed collections are collections:

2147 (i) fixed by law or by the appropriation act at a specific amount; and

2148 (ii) required by law to be deposited into a separate line item and program.

2149 (b) The Legislature may establish by law the maximum amount of fixed collections  
2150 that an agency may expend.

2151 (c) If an agency receives less than the maximum amount of expendable fixed  
2152 collections established by law, the agency's authority to expend is limited to the amount of  
2153 fixed collections that it receives.

2154 (d) If an agency receives fixed collections greater than the maximum amount of  
2155 expendable fixed collections established by law, those excess amounts lapse to the General  
2156 Fund, the Education Fund, the Uniform School Fund, or the Transportation Fund as designated  
2157 by the director of the Division of Finance at the end of the fiscal year.

2158 (7) (a) Unless otherwise specifically provided by law, when an agency has a program  
2159 or line item that is funded by more than one major revenue type, the agency shall expend its  
2160 dedicated credits and fixed collections first.

2161 (b) Unless otherwise specifically provided by law, when programs or line items are  
2162 funded by more than one major revenue type and include both free revenue and restricted  
2163 revenue, an agency shall expend those sources based upon a proration of the amounts  
2164 appropriated from each of those major revenue types.

Section 8. Section **63-38a-104** is amended to read:

**63-38a-104. Disposition of revenues.**

(1) (a) Each agency shall include in its annual budget request estimates of dedicated credits revenues and fixed collections revenues that are identified by, collected for, or set by the agency.

(b) If the Legislature or the Division of Finance establishes a new revenue type by law, the agency shall include that new revenue type in its budget request for the next fiscal year.

(c) (i) Except as provided in Subsection (c)(ii), if any agency fails to include the estimates of a revenue type in its annual budget request, the Division of Finance shall deposit the monies collected in that revenue type into the General Fund or other appropriate fund as free or restricted revenue.

(ii) The Division of Finance may not deposit the monies collected from a revenue type not included in an agency's annual budget request into the General Fund or other appropriate fund if the agency did not include the estimates of the revenue type in its annual budget request because the Legislature had not yet established or authorized the new revenue type by law.

(2) (a) (i) Except as provided in Subsection (2)(b), each agency that receives dedicated credits and fixed collections revenues greater than the amount appropriated to them by the Legislature in the annual appropriations act may expend the excess up to 25% of the amount appropriated if the expenditure is authorized by an amended work program approved as provided in Section 63-38-11. However, except for ~~[monies deposited as dedicated credits in the Illegal Drug Stamp Tax Fund under Section 59-19-105 or]~~ line items covering tuition and federal vocational funds at institutions of higher learning, any expenditure of dedicated credits in excess of amounts appropriated by the Legislature may not be used to permanently increase personnel within the agency unless approved by the Legislature.

(ii) The Division of Finance shall deposit the balance of that excess into the General Fund or other appropriate fund as free or restricted revenue.

(b) Notwithstanding the requirements of Subsection (2)(a), when an agency's dedicated credits and fixed collections revenues represent over 90% of the budget of the program for which they are collected, the agency may expend 100% of the excess of the amount appropriated if the expenditure is authorized by an amended work program approved as provided in Section 63-38-11.

2196           Section 9. **Repealer.**  
2197           This bill repeals:  
2198           Section **59-13-104, Tax rate decals -- Posted on pump.**  
2199           Section **59-19-101, Short title.**  
2200           Section **59-19-102, Definitions.**  
2201           Section **59-19-103, Tax imposed on marihuana and controlled substances.**  
2202           Section **59-19-104, Stamps evidencing tax paid to be provided and sold by the**  
2203 **commission.**  
2204           Section **59-19-105, Stamps to be affixed to marihuana and controlled substance --**  
2205 **Anonymity provided when purchasing stamps -- Collection and distribution of tax --**  
2206 **Property in kind.**  
2207           Section **59-19-106, Civil penalty -- Criminal penalty -- Statute of limitations --**  
2208 **Burden of proof.**  
2209           Section **59-19-107, Commission to administer tax -- No criminal immunity for**  
2210 **dealers.**  
2211           Section **59-27-101, Title.**  
2212           Section **59-27-102, Definitions.**  
2213           Section **59-27-103, Tax imposed on a sexually explicit business -- Tax imposed on**  
2214 **an escort service.**  
2215           Section **59-27-104, Payment of tax.**  
2216           Section **59-27-105, Sexually explicit business and escort service fund.**  
2217           Section **59-27-106, Records.**  
2218           Section **59-27-107, Action for collection of tax -- Action for refund or credit of tax.**  
2219           Section **59-27-108, Penalties and interest.**  
2220           Section 10. **Effective date.**  
2221           This bill takes effect on July 1, 2008.